THE TRAVANCORE COURT OF WARDS BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I rise to present the report of the Select Committee on the Travancore Court of Wards Bill and beg to move that the Bill as reported by the Committee be taken into consideration.

MR. R. M. STATHAM (*Director of Public Instruction*): I second it.

PRESIDENT: Moved and seconded that the Travancore Court of Wards Bill, as amended by the Select Committee, be taken up for consideration.

The motion was put to the vote of the House and carried.

Clauses 1 to 4.

The question that clauses 1, 2, 3 and 4 do form part of the Bill was put to the vote of the House and carried.

The clauses were added to the Bill.

Clauses 5 to 7.

The question that clauses 5, 6 and 7 do form part of the Bill was put to the vote of the House and carried.

The clauses were added to the Bill.

Clauses 8 to 18.

The question that clauses 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 do form part of the Bill was put to the vote of the House and carried

The clauses were added to the Bill.

Clauses 19 to 34.

The question that clauses 19, 20, 21, 22, 23, 24, 25. 26, 27, 28, 29, 30, 31, 32, 33 and 34 do form part of the Bill was put to vote and carried.

The clauses were added to the Bill.

Clauses 35 to 42.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Sir, in regard to clause 41, I wish to move an amendment, though I was not able to give notice of it.

PRESIDENT: Let me know the form of the amendment.

MR. A. THANU PILLAI (*Trivandrum-Rural*): I beg to move that: *clause 41 of the Bill be deleted.*

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It is a very long clause and since no notice was given I am not quite prepared to meet it. If, at least, I had private notice of it, say, this morning, I would have been ready. As matters stand, I object.

PRESIDENT: Yes, I think it would be rather difficult to take up an important amendment like that at this stage. The Law Member, I think, would feel grateful if the member had given him notice at least this morning. So in view of that, it is rather hard for the Chair, at this last moment, to say that this amendment be moved.

MR. A. THANU PILLAI (*Trivandrum-Rural*): Sir, then I pray that clause 41 may be put separately so that I may have an opportunity to oppose it.

Clauses 35 to 40

The question that clauses 35, 36, 37, 38, 39 and 40 do stand part of the Bill was then put and carried. The clauses were added to the Bill.

LIBRARY ARCHIVES Kerala Legislative Assembly

Clause 41.

PRESIDENT: The next question is whether clause 41 do form part of the Bill.

MR. A. THANU PILLAI (*Trivandrum-Rural*): Sir, I oppose for this reason. This clause provides that when any property of a ward is in possession of a mortgagee it may be taken possession of by the court even against the will of the mortgagee. The only condition is that the Government should be satisfied that it is expedient in the public interests that the estate should be preserved and the encumbrancer should deliver up possession of the mortgaged property and make a declaration to that effect. Sir, in regard to that condition, I contend that it is quite an illusory guarantee and that it cannot be a justification for depriving a mortgagee who has parted with his money on certain specific conditions, of the possession of his mortgage holding. Again the other provisions of the clause are, by no means, adequate to safeguard the interests of the mortgagee. These are contained in the succeeding sub-clauses. If the mortgagee refuses to part with his possession the Division Peishkar can evict him against his will. This is in spite of any term for which the mortgage is granted. Under the third sub-clause the Division Peishkar shall offer to the mortgagee such interest as the Division Peishkar thinks proper. Such interest seems to be only on the principal of the mortgage money. It is a matter of very common knowledge that in Travancore mortgages are in many cases taken with the definite purpose of improving the property. The mortgagee improves the property in the hope of enjoying it till the end of the term and of getting the mortgage money and the value of improvements before surrendering possession. Under these circumstances it would be quite unjust to deprive the mortgagee of his possession without paying his mortgage money and the value of the improvements he has effected. According to the clause in the Bill, he has, after giving up possession, to wait for the return of his money. The income from the property will be first used for the several items of expenditure mentioned in clauses 1 and 2 detailed in clause 30 and it is only what balance is left that will go to the mortgagee.

PRESIDENT: You are not to circumvent the ruling of the Chair in disallowing the amendment. If you want to speak on that, I shall have to rule you out of order.

MR. A THANU PILLAI (*Trivandrum-Rural*): May I briefly mention the grounds on which I oppose the clause?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): A point of order. Now there is a motion before the House that this clause do form part of the Bill and one member opposes the motion whether the clause do stand part of the Bill or not. Is it not necessary that not only the member who starts the opposition but others who want to support the opposition also should be given an opportunity to speak?

PRESIDENT: Unless there is a definite amendment before the House, no member has got the right to speak.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Even if they have to oppose?

PRESIDENT: Well, at that rate, on every clause the whole House can speak. Why did he not put in an amendment?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): The motion that the clause do stand part of the Bill is before the House and we can speak on it.

PRESIDENT: It is only on an amendment that any member can speak, and, when a clause is put, it has only to be voted upon.

MR. A. THANU PILLAI (*Trivandrum-Rural*): Then again there is no guarantee that the debt will be paid off by the court before they discharge themselves of the responsibility to administer the estate.

Under these circumstances, Sir, it is quite unjust and arbitrary that the mortgagee in possession is disturbed. Further, the estate will not suffer if this provision is not inserted in the Regulation. So I oppose the clause.

PRESIDENT: Let me tell Mr. Asan distinctly that it is not the intention of the Chair either to act arbitrarily or to shut out legitimate discussion. This motion, as Mr. Asan will clearly understand, is not a motion before the House. It is merely a question, put by the Chair, as to whether this clause do form part of the Bill. Those who are in favour of it will certainly say 'yes' and those who are against it will say 'no'. There is not a regular motion before the House. Therefore, Mr. Asan will understand that anything which is not a motion is not open to discussion.

The question that clause 41 do form part of the Bill was put and declared carried.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I demand a poll.

A poll was accordingly taken with the following result:

AYES—28.

1 Mr. N. Abdur Rahiman Sahib	16 Mr. K. Madhavan
2 ,, V. T. Chacko	17 Srimati T. Narayani Amma
3 ,, S. Chattanatha Karayalar	18 Mr. G. Nilakantan
4 ,, A. Easwara Pillai (*Kalkulam II*)	19 ,, R. Nilakanta Pillai
5 ,, John Whitley Tolson	20 Rao Sahib S. Paramesvara Aiyar
6 ,, Antony George	21 Mr. Kayalam Paramesvaran Pillai
7 ,, M. Mahomed Haneef	22 Rao Bahadur N. Ramanuja Aiyangar
8 ,, T. S. Jayantan Nambootiri	23 Mr. K. Sankaran
9 ,, N. John Joseph	24 ,, James Simpson
10 ,, K. C. Karunakaran	25 ,, R. M. Statham
11 ,, T. T. Kesavan Sastri	26 ,, T. C. Thommen
12 ,, K. M. Krishnan	27 ,, G. B. E. Truscott
13 Rao Sahib Dr. N. Kunjan Pillai	28 ,, T. K. Velu Pillai.
14 Mr. E. K. Kunjuraman	
15 ,, C. O. Madhavan	

LIBRARY ARCHIVES Kerala Legislative Assembly

NOES—27.

1	Mr.	K. C. Abraham	14	Mr.	K. A. Narayana Pillai
2	,,	A. S. Damodaran Asan	15	,,	Pacode A. Narayana Pillai
3	,,	A. Easwara Pillai (*Kottarakara*)	16	,,	P. K. Narayana Pillai
4	,,	T. C. Joseph	17	,,	S. Nilakanta Pillai.
5	,,	K. P. Krishna Menon	18	,,	Changanachery K. Parameswaran Pillai
6	,,	Pottayil S. Krishna Panickar	19	,,	V. Ramakrishna Panickar
7	,,	E. V. Krishna Pillai	20	,,	R. Raman Pillai
8	,,	Puthupalli S. Krishna Pillai	21	,,	M. Sivatanu Pillai
9	,,	T. Krishna Pillai	22	,,	A. Thanu Pillai
10	,,	K. Kunjukrishna Pillai.	23	,,	S. Thiraviam Nadar
11	,,	M. K. Madhavan Pillai	24	,,	P. K. Thomas
12	,,	K. Mahomed	25	,,	N. E. Varughese
13	,,	M. N. Nair	26	,,	V. K. Velappan Nair
			27	,,	T. P. Velayudhan Pillai

NEUTRALS—3.

1	Mr.	K. R. Elenkath	3	Mr.	P. C. Narayanan Bhattatiripad.
2	,,	K. M. Kuriakose			

The motion was declared carried.

The clause was added to the Bill.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*) : The official members were only eight and not nine. The Police Commissioner came in the middle of the voting and so his vote should not be counted.

PRESIDENT : The poll having been declared, there can be no further question.

Clauses 42 to 48.

PRESIDENT : The question is that Clauses 42, 43,.....

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*) : Clause 42 may be separately put for the identical reason that Clause 41 was put separately.

The question that clause 42 do form part of the Bill was then put and carried and the clause was added to the Bill.

Clauses 43 to 48.

The question that clauses 43 to 48 do form part of the Bill was put and carried and the clauses were added to the Bill.

Clauses 49 to 57.

The question that clauses 49 to 57 do form part of the Bill was put and carried and the clauses were added to the Bill.

Clauses 58 to 62.

The question that clauses 58 to 62 do form part of the Bill was put and carried and the clauses were added to the Bill.

LIBRARY ARCHIVES Kerala Legislative Assembly

Clause 63.

The question that clause 63 do form part of the Bill was put and carried and the clause was added to the Bill.

PREAMBLE.

The question that the Preamble do stand part of the Bill was put and carried.

TITLE.

The question that the Title do stand part of the Bill was put and carried.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I shall, now proceed to move the third reading of the Bill. But before I move that, I beg permission to move a formal amendment in sub-clause (1) of clause 1 to add the figure 1110 at the end.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): The second reading is now over. May I know whether the member is moving it at the third reading.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Then I oppose that.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I now move the amendment that the figure "1110" be added at the end of clause 1 (1).

MR. R. M. STATHAM (*Director of Public Instruction*): I second it.

The amendment was carried.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I now move that the Bill as amended be passed.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I oppose the motion and say that the Bill should not be taken up for the third reading just now. Sir, provision is made for the three readings of a Bill with some purpose. I do not know any reason why the third reading of the Bill should be hurried through. Instead, the Government themselves can consider the whole matter and if they find that there is any necessity for changes to be introduced, of course, the official member himself might be convinced of it and he can bring amendments at the time of the third reading. There is absolutely no necessity for the Bill being rushed through all the three stages. There is some purpose in providing that a Bill should pass through certain definite stages. Hasty legislation should not be resorted to. There is absolutely nothing lost if the House waits and considers over this very important question. It might happen that the learned Law Member himself might have suggestions that will make the Bill better and the legislation safer.

On these grounds, Sir, I oppose the motion of the Law Member that the Bill be taken up for the third reading at the present moment and I also request that this House shall not allow this method of rushing through the legislation. The Law Member has been doing that in regard to various Bills and we must put an end to that practice.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): May I say one word, Sir?

PRESIDENT: Yes.

MR. KAYALAM PRAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The second reading was finished and there has been no amendment to the Bill. Under Standing Order No. 46 of the Sanding Orders of this House the third reading of the Bill may be taken up immediately. Standing Order No. 46 reads thus:

"(1) When a motion that a Bill be taken into consideration has been carried, and no amendment of the Bill is made, the member in charge may at once move that the Bill be passed.

(2) If any amendment of the Bill is made, any member may object to any motion being made on the same day that the Bill be passed, and such objection shall prevail unless the President, in the exercise of his power to suspend this Standing Order, allows the motion to be made.

(3) Where the objection prevails, a motion that the Bill be passed may be brought forward on any future day."

So, I am entitled to make the motion, and the normal procedure is to move the third reading at once if there has been no amendment at the second reading. That is what the Standing Orders contemplate. There is nothing extraordinary in this Bill and nothing has turned out to suggest a departure from the normal course.

MR. R. M. STATHAN (*Director of Public Instruction*): I second it.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): We are not questioning his right to move it.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Even though no amendment has been made, there was an opposition because no amendment could be moved. It was not the case that the Bill was passed without any opposition and that the whole House accepted everything at the second reading stage. There might be points which the learned Law Member might consider would require a change. That is why the third reading of a Bill is provided for during another session and what is it that is lost by waiting for another session of the House?

PRESIDENT: If there were some important amendments to be made in this piece of legislation I should have expected the Honourable members to apply their minds when the Bill was circulated. But all these days nothing has emanated. Suddenly, at the last moment when the clause is about to be put to the House, certain members say, 'we want this to be deleted'. That does not indicate that the members of the House take an interest in the Bill or that it is such a vicious Bill that it ought not to be passed into law. If that was the case, I should certainly have been prepared to give them all the indulgence they ask for. No doubt, there are occasions when the third reading of a Bill should not be rushed through. But the question is whether this is one such.

MR. T. K. VELU PILLAI (*Trivandrum—Urban*): May I say a word, Sir?

LIBRARY ARCHIVES Kerala Legislative Assembly

PRESIDENT: Yes.

MR. T. K. VELU PILLAI (*Trivandrum-Urban*): I was the chairman of the Select Committee which sat on this Bill. The report of the Select Committee has been accepted by the House. The principle contended for by Mr. Kunjukrishna Pillai appears to be sound, because the Law Member has not stated any reason why any exceptional treatment should be given to this Bill. I am keeping an open mind on this question, Sir but so long as the Law Member has not thought it necessary to give any particular reason why the third reading of the Bill should be taken up immediately some of us feel the position to be one of real difficulty. If there is anything to be served by rushing through the Bill, the Law Member should ask the permission of the House. But so long as no reasons are forthcoming a different view may be taken. So, I would request the Law Member to state why if there is no particular reason, this Bill should be taken up for the third reading. He might take into his confidence this House also and have the Bill passed at the proper stage.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) In every Legislative Chamber, it will be seen, it there is no amendment at the second reading stage of the Bill, it is automatically taken up for the third reading. The second para of the Rule reads thus :—

> "If any amendment of the Bill is made, any member may object to any motion being made on the same day that the Bill be passed, and such objection shall prevail unless the President, in the exercise of his power to suspend this Standing Order, allows the motion to be made"

Again,

> "Where the objection prevails, a motion that the Bill be passed may be brought forward on any future day."

So much so, it is open to me to bring this Bill even to-morrow for its third reading, even if there has been an amendment at the second reading. So, as a matter of course, when there is no other business in regard to this Bill, the third reading is taken up. This is not a novel procedure. I do not understand how the right of the House has been infringed in this. Further, this has to go to the other Chamber after it is passed here and that may take time. So we should economise time as much as possible.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): May I know whether there is any emergency in passing the measure just now?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) It is not an emergency measure.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Did the Law Member consider the objections raised by Mr. Thanu Pillai as reasonable?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): On that clause, as on every other clause, the Select Committee considered the matter very carefully in all its aspects. Without a single dissentient voice the clause has been accepted. There were 12

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Kayalam Paramesvaran Pillai.]

members on the Select Committee. No notice of any amendment was sent up by any of the 62 non-official members, excepting Mr. Thanu Pillai. Nobody even thought of opposing any portion of the Bill.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Was the objection raised by Mr. Thanu Pillai raised in the Select Committee?

PRESIDENT: Mr. Kayalam Paramesvaran Pillai says, under the normal procedure to be adopted, it is permissible under the rules to proceed with the third reading. And, automatically third reading takes place after the completion of the second reading. If there is no amendment, the Bill as amended by the Select Committee, goes through the same form as it emerged from the Committee. Under these circumstances, I think, there is nothing gained by postponing the third reading to a future date. However, on the other hand, there seems to be a suggestion that instead of getting through the third stage at once it might be taken up some other day.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I have no objection to move it to-morrow.

PRESIDENT Are the Honourable members aware there is one more official day and that is to-morrow?

MR. A. S. DAMODARAN ASAN (*Mavelikara*) In that case we will proceed with the Bill even now.

PRESIDENT: To postpone a Bill in this patent form after it has emerged from the Select Committee and when there is no amendment proposed at the second reading—there is no object in postponing the Bill to a future date. There is no meaning in a procedure like this.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) That has been the case with regard to all Bills passed in this Council until the Reforms Regulation was passed.

PRESIDENT: However, I do not wish to anticipate the view of the House. Somebody who is anxious to have the third stage being adjourned to a later day will have to move a formal motion.

MR. T. K. VELU PILLAI (*Trivandrum-Urban*): The motion that the Bill need not be proceeded for the third reading has been proposed. The Law Member stated that he had no objection in taking up the Bill to a future day for further consideration. Then Mr. Asan said that we will have the Bill even to-day itself if that be the case. Sir, I want a ruling on that point. Whether, in the light of the undertaking given by the Law Member that he is not particular of having it to-day, any member can say, if that is a condition we will have it to-day.

PRESIDENT: Is any body going to move that this Bill be taken up for consideration to-morrow or not?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): A motion has already been moved by the Law Member and it stands opposed.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. K. R. ELENKATH (*Kalkulam I*): Sir, I move that the third reading of the Bill be postponed to the next session of the Assembly.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I rise to a point of order. A motion for adjournment cannot specify a particular day for the postponed business.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): Is the motion moved by the Law Member before the House, Sir?

PRESIDENT: Moved and seconded that the third reading of the Bill be taken up at once.

Those who are in favour of the motion, please show their assent.

The motion was put to vote and lost.

THE TRAVANCORE LUNACY BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) I beg to present the Report of the Select Committee on the Travancore Lunacy Bill and move that the Bill as reported be taken up for consideration.

MR. R. M. STATHAM (*Director of Public Instruction*): I second it.

Clause 1.

PRESIDENT: As there is no amendment to clause 1, I take it, the House agrees to the clause being added to the Bill.

Clause 1 was added to the Bill.

Clause 2.

MR PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): I beg to move the amendment that :

The word 'or' occurring in sub-clause 1, line 1, be deleted and the word 'and' put in.

I wish to offer a few words by way of explanation why this amendment is necessary. Before I am able to convince the House as to what exactly is indicated by this amendment I have to state some facts relating to the general principles involved in the Bill.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): The word 'or' occurs twice. May I know to which 'or' the member refers?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): I refer to the second 'or'. In case the first amendment is not carried, I wish to move the second amendment in order that the words "or declared to be such," may be deleted and the section may be deprived of all the evils which it otherwise would have. It is stated in the Objects and Reasons that this Bill has been drafted on the lines of Act IV, 1912, the British Indian Lunacy Act. Further, it says that the Lunacy Regulation which is in existence at present is found to be insufficient. On referring to the corresponding clause in the British Indian Act, in the place of this phrase that we find here, "or declared to be such" we find the expression "or licensed by". My impression is that this expression "or declared to be such" in the present Bill is intended to be the substitute

LIBRARY ARCHIVES Kerala Legislative Assembly